

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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2009 FEB 11 A 11: 28

Albarr-ali Abdullah, #191449,)	C. A. No. 2:08-3085-MBS-RSC
)	
Plaintiff,)	
)	
-versus-)	<u>REPORT AND RECOMMENDATION</u>
)	
Director Jon Ozmint; Warden)	
NFN Cohen; Ms. Montouth;)	
Ms. Mixson, and Ms. Gornsey,)	
)	
Defendants.)	
)	

The plaintiff filed this action on September 20, 2008. Pursuant to Federal Rule of Civil Procedure 4(m), service of the summons and complaint must be made within 120 days of the date the complaint is filed. Service was not made in a timely manner, and on January 15, 2009, an Order was entered advising the plaintiff that if service was not accomplished within twenty (20) days from the date of the Order, "this case will be dismissed for lack of prosecution." To date, service has not been accomplished in this case.

Now, therefore, it is recommended that the complaint herein be dismissed in accord with Federal Rule of Civil Procedure 4(m) for failure to prosecute.

Respectfully submitted,



Robert S. Carr
United States Magistrate Judge

Charleston, South Carolina

February 11, 2009

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Court Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. In the absence of a timely filed objection, a district court judge need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310 (4th Cir. 2005).

Specific written objections must be filed within ten (10) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The time calculation of this ten-day period excludes weekends and holidays and provides for an additional three (3) days for filing by mail. Fed. R. Civ. P. 6(a) & (e). Filing by mail pursuant to Fed. R. Civ. P. 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
P.O. Box 835
Charleston, South Carolina 29402

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985).